

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

US SYNTHETIC CORPORATION,

Plaintiff,

v.

FUJIAN WANLONG SUPERHARD  
MATERIAL TECHNOLOGY CO., LTD.

Defendant.

Case No. 4:20-cv-03975

**DEFENDANT FUJIAN WANLONG SUPERHARD MATERIAL TECHNOLOGY CO.,  
LTD.’S UNOPPOSED MOTION TO STAY PENDING RELATED ITC PROCEEDINGS**

Pursuant to 28 U.S.C. § 1659, Defendant Fujian Wanlong Superhard Material Technology Co., Ltd. (“Wanlong”), by its undersigned counsel, respectfully moves for a stay of the above-captioned case, pending the final determination in related proceedings before the United States International Trade Commission (ITC) involving Plaintiff US Synthetic Corporation.

On November 20, 2020, US Synthetic filed a complaint in the ITC alleging violations of 19 U.S.C. § 1337. Ex. A (“ITC Complaint”). The ITC Complaint alleges Wanlong infringes one or more of U.S. Patent Nos. 9,932,274 (“the ’274 Patent”), 10,508,502 (“the ’502 Patent”), 9,315,881 (“the ’881 Patent”), and 10,507,565 (“the ’565 Patent”). *Id.* at ¶ 5. The ITC proceeding involves four patents that are the same four patents asserted in this case—the ’274, ’502, ’881, and ’565 Patents. *Compare* Dkt. No. 1, ¶ 1 *with* Ex. A at ¶ 5. The Notice of Institution of the ITC proceeding issued on December 21, 2020 and published in the Federal Register on December 29, 2020. Ex. B (“Notice of Institution”).

Section 1659(a) provides, in part:

Stay.—In a civil action involving parties that are also parties to a proceeding before the United States International Trade Commission under section 337 of the Tariff Act of 1930, at the request of a party to the civil action that is also a respondent in the proceeding before the Commission, the district court *shall stay*, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Commission, but only if such request is made within—

(1) 30 days after the party is named as a respondent in the proceeding before the Commission, or

(2) 30 days after the district court action is filed, whichever is later.

28 U.S.C. § 1659(a) (2018) (emphasis added).

Wanlong states that it is entitled to a stay because it satisfies these conditions under § 1659(a). First, both the ITC and this action involve overlapping parties. *See generally* Ex. A. Second, Wanlong’s motion is timely. This Motion is filed within 30 days of the institution announcement dated December 21, 2020. *See* Ex. B.

In requesting a stay, Wanlong expressly reserves all of its objections and defenses to Plaintiff’s Complaint in this action, including without limitation, any waivable defense available under Rule 12 of the Federal Rules of Civil Procedure.

Counsel for Wanlong conferred with counsel for Plaintiff regarding this Motion, and Plaintiff does not oppose.

For these reasons, Wanlong respectfully requests that this Motion be granted pursuant to 20 U.S.C. § 1659(a) and that this Court stay this civil action as to all defendants.

Dated: January 20, 2021

Respectfully submitted,

SMYSER KAPLAN & VESELKA, LLP



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*\*Pro hac to be filed*

**COUNSEL FOR FUJIAN WANLONG SUPERHARD  
MATERIAL TECHNOLOGY CO., LTD.**

**CERTIFICATE OF SERVICE**

The undersigned certifies that on January 20, 2021, a true and correct copy of the foregoing document was served on all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF filing system.

A handwritten signature in black ink, appearing to read "Land", written over a horizontal line.

Garland "Land" Murphy

**CERTIFICATE OF CONFERENCE**

I hereby certify that on January 20, 2021, counsel for Defendant Fujian Wanlong Superhard Material Technology Co., Ltd. conferred with Plaintiff's counsel on this Motion, and Plaintiff's counsel does not oppose a stay of the above-captioned case pending the final determination in related proceedings before the ITC.

A handwritten signature in black ink, appearing to read "Land", written over a horizontal line.

Garland "Land" Murphy